

SENATE BILL 1065
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 6,
Part 3, relative to grandparents visitation rights.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-302, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A grandparent of a minor child may petition the court for reasonable visitation rights if a sufficient relationship exists between the grandparent and the child.

(b) A grandparent shall be deemed to have a sufficient existing relationship with a grandchild if:

(1) the child has resided with the grandparent for at least six (6) consecutive months during the past two (2) years and the child's parent(s) were not living in the same household; or

(2) the child and his or her parents have resided with the grandparents for a period of at least one (1) year ending within the year preceding the filing of the petition for visitation rights; or

(3) the grandparent has been a full-time caretaker of the child for a period of at least six (6) consecutive months in the last two (2) years; or

(4) the grandparent has had frequent visitation, including frequent overnight visitation, with the child who is the subject of the suit for a period of at least one (1) year.

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Frequent visitation means at least an average of one (1) visit every week and one (1) overnight visit every two (2) weeks.

(c) The following procedures apply to petitions for rights of visitation:

(1) the grandparent shall file with the petition for rights of visitation an affidavit alleging a sufficient existing relationship under subsection (b) of this section. When the petition and accompanying affidavit are filed with the court, the grandparent shall serve a copy of both on the parent(s) with custody of the child or legal guardian(s) of the child;

(2) the parent(s) or legal guardian of this child may file an affidavit in response to the grandparent's petition and accompanying affidavit. When the affidavit in response is filed with the court, the parent(s) or legal guardian(s) shall deliver a copy to the grandparent;

(3) the court shall determine on the basis of the petition and the affidavit whether it is more likely or not that a sufficient existing relationship under subsection (b) exists;

(4) if the court's decision under subdivision (3) is in the affirmative, the court shall hold a hearing on the grandparent's petition for reasonable rights of visitation.

(d)(1) In a hearing concerning a petition by a grandparent for reasonable rights of visitation under subdivision (c)(4), the court shall make the following findings of fact by clear and convincing evidence:

(A) the grandparent has a sufficient existing relationship as defined in subsection (b); and

(B) the visitation is in the best interests of the child.

(2) In determining the best interests of the child, the court shall consider the following factors:

(A) the length and quality of the prior relationship between the grandparent and the child;

(B) the existing emotional ties of the child to the grandparent;

(C) the preference of the child if the child is determined to be of sufficient maturity to express a preference;

(D) the effect of hostility between the grandparent and parent on the child and the willingness of the grandparent to encourage a close relationship between the child and the parent(s) or guardian(s) of the child;

(E) the good faith of the grandparent in filing the petition;

(F) if the parents are divorced, the time sharing arrangements that exist between the parents with regard to the child.

SECTION 2. This act shall take effect on July 1, 1997, the public welfare requiring it.